UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

ROBIN ZAHRAN and	)	
KAREN ZAHRAN,	)	Case No. 91-C-808
Plaintiffs	)	
v.	)	March 22, 1993
FRANKENMUTH MUTUAL INS.	)	
CO. Defendant	)	

ORDER

Having reviewed the briefs and supporting documents, as well as the supplementary materials recently submitted, the court ORDERS that the Defendant's Motion for Summary Judgement (filed June 22, 1992) IS DENIED IN PART AND GRANTED IN PART. Summary judgement is granted in favor of the Defendant on the Plaintiff's cause of action for a violation of Illinois law because "(e) very insurance against loss of destruction of property in this state (Wisconsin)... is governed by the law of this state." Wis. Stat. $632.09.

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Therefore, because the insured property which is the subject of this action is located in Wisconsin, Illinois law does not apply. Although it appears unlikely that the Plaintiffs can prevail on their remaining claims for breach of the insurance contract and bad faith, these claims must be tried because the court cannot rule on credibility or weigh evidence at the summary judgement stage. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986).

Done and Ordered in Chambers at the United States Courthouse, Milwaukee, Wisconsin this 22nd day of March, 1993.

Signed
Thomas J. Curran
United States District Judge

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